



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 6923-99
10 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 26 November 1968 for four years at age 18. The record reflects that you were advanced to FA (E-2) and served without incident until 6 August 1969, when you were referred for an emergency psychiatric consultation because of your inability to take orders, your irrational behavior, and the command's inability to control you. The psychiatric consultation report stated that you gave an extensive history of severe behavioral difficulties. The health record noted that on 30 July 1969 you were out of control in the engine room of the ship, pounding your fists on the walls and screaming that you could not take it anymore, and had to be medicated to bring you under control. You expressed to the examining psychiatrist an inability to tolerate your duties and said that you would resort to drastic measures to avoid them. You were diagnosed with an emotionally unstable personality disorder. Administrative separation by reason of unsuitability was recommended if you failed to respond to appropriate counseling, leadership, guidance and discipline.

On 14 August 1969, you received nonjudicial punishment (NJP) for two brief periods of unauthorized absence totalling about five days. Punishment consisted of reduction in rate to FR (E-1) and forfeitures of one half pay per month for two months.

The medical record reflects that on 15 October 1969 you were sent to sickbay by the duty cook because you were shaking all over. You were unable to sit still and would not respond to questions. You tried to leave sickbay and when forcibly restrained, you became violent. You were placed on medication and returned to duty. On 26 February 1970, the medical officer noted that you continued to have difficulty accepting orders and performing assigned duties, and were facing further disciplinary action. The medical officer recommended discharge since there had been no improvement since the psychiatric evaluation in July.

You received your second NJP on 5 March 1970 for failure to obey a lawful order. Thereafter, you were notified that discharge was being considered by reason of unsuitability due to a character and behavior disorder. You were advised of your procedural rights and that the discharge could be under other than honorable conditions. However, you waived your rights and the commanding officer recommended separation with a general discharge by reason of unsuitability. On 20 March 1970, the Chief of Naval Personnel directed discharge by reason of unsuitability with the type of discharge warranted by the service record. You received a general discharge on 25 March 1970.

Regulations provided that individuals discharged by reason of unsuitability receive the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall trait averages which are computed from marks assigned during periodic evaluations. Your military behavior and overall traits averages were both 2.6. The minimum average marks required for a fully honorable characterization at the time of your discharge were 3.0 in military behavior and 2.7 in overall traits.

In its review of your application, the Board carefully weighed all mitigating factors such as your youth and immaturity and the fact that it has been nearly 30 years since you were discharged. The Board noted your contention that you thought the discharge would become honorable after a certain period of time had elapsed. The Board concluded that these factors and contention were insufficient to warrant recharacterization of the discharge given your record of two NJPs and the failure to achieve the required averages in military behavior and overall traits. There are no automatic provisions for upgrading a discharge, and if you were misadvised, this does not provide a valid basis for recharacterizing service. You have provided neither probative

evidence nor a convincing argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director